

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

TERRY CREECH,

Plaintiff,

v.

CHARLOTTE AREA TRANSIT
SYSTEM, CITY OF CHARLOTTE,

Defendants.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants Charlotte Area Transit System (“CATS”) and the City of Charlotte, by and through the undersigned counsel and pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, are respectfully removing this action from the General Court of Justice, Superior Court Division, of the State of North Carolina, Mecklenburg County, to the United States District Court for the Western District of North Carolina based on the following grounds:

1. On May 2, 2023, a civil action was initiated by the filing of the Complaint in the Mecklenburg Country Superior Court, styled *Terry Creech v. Charlotte Area Transit System, City of Charlotte*, Civil Action No. 23-CVS-7397.

2. Although not properly served, Defendants’ attorneys became aware of a copy of the Complaint on or about May 10, 2023. Attached hereto as **Exhibit A** are all processes, pleadings, and other documents received by the undersigned counsel on May 10, 2023, pursuant to 28 U.S.C. § 1446(a).

3. On May 31, 2023, Plaintiff filed a Second Amended Complaint in Mecklenburg County Superior Court. Plaintiff's Complaint and Second Amended Complaint are hereinafter referred to collectively as the "State Court Action."

4. Although not properly served, Defendants' attorneys became aware of a copy of the Second Amended Complaint on June 1, 2023. Defendants attach hereto as **Exhibit B** all processes, pleadings, and other documents received by the undersigned counsel on June 1, 2023.

5. This Notice is being timely filed within thirty (30) days of the receipt of the initial Summons and Complaint, received May 10, 2023, as required by 28 U.S.C. § 1446(b).

6. Plaintiff's allegations against Defendants in the State Court Action arise from what appears to be an alleged: (1) hostile environment based on age and race in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"); (2) retaliation in violation of the Family and Medical Leave Act ("FMLA"); (3) wrongful termination in violation of North Carolina public policy; and (4) tortious interference with a contract.

7. Plaintiff's allegations and claims are of a civil nature that raise federal questions arising under Title VII and the FMLA and for which the United States District Court for the Western District of North Carolina has original jurisdiction; therefore, these claims are subject to removal pursuant to 28 U.S.C. § 1331.

8. This Court has supplemental jurisdiction over Plaintiff's remaining state law causes of action pursuant to 28 U.S.C. § 1367.

9. Removal is proper under 28 U.S.C. § 1446 based upon the foregoing.

10. In removing this action, Defendants do not waive any defenses that may be available to them, including without limitation that CATS is not a legal entity capable of being sued.

11. A copy of this Notice of Removal will be filed with the Clerk of Court for the North Carolina General Court of Justice, Superior Court Division, Mecklenburg County and thereafter served upon Plaintiff pursuant to 28 U.S.C. §1446(d).

WHEREFORE, Defendants, by and through the undersigned counsel, remove the State Court Action from the North Carolina General Court of Justice, Superior Court Division, Mecklenburg County to the United States District Court for the Western District of North Carolina.

Respectfully submitted this the 2nd day of June, 2023.

OFFICE OF THE CITY ATTORNEY

/s/Tamara A. Okoli

Tamara A. Okoli (N.C. Bar No. 44668)

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Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **NOTICE OF REMOVAL** was electronically filed with the Clerk of Court using the CM/ECF system and further delivered to each of the below listed person(s) this date by placing the same in an official depository under the exclusive care and custody of the United States Postal Service, addressed as follows:

Jonathan Metcalf, Esq.
5309 Monroe Road, Ste. 112
Charlotte, NC 28205

Counsel for Plaintiff Terry Creech

This the 2nd day of June, 2023.

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OFFICE OF THE CITY ATTORNEY

/s/Tamara A. Okoli

Tamara A. Okoli (N.C. Bar No. 44668)